

Amendment No. 1 to HB0813

Halford
Signature of Sponsor

AMEND Senate Bill No. 693*

House Bill No. 813

by deleting all language after the caption and substituting instead the following:

WHEREAS, the General Assembly recognizes that it is the right of individuals to produce, procure, and consume homemade foods of their choice free from unnecessary and anticompetitive regulations, and foster small businesses, innovation, and economic growth; and

WHEREAS, the General Assembly determines that:

(1) There is great interest in small-scale, home-based food businesses in this State; however, current law restricts entrepreneurs' ability to establish and grow such businesses;

(2) Expanding the freedom of entrepreneurs to operate home-based food businesses will provide numerous benefits, including the opportunity for self-employment and to earn an honest living through work that affords flexibility, creativity, and financial rewards;

(3) Consumers desire foods produced by such entrepreneurs;

(4) Expanding the freedom of consumers to procure food from home-based food businesses will provide many benefits, including consumers in urban and rural areas in this State gaining access to a greater variety of food options, especially food produced on a small, local scale, and keeping more of the food dollar in the State economy;

(5) There is little evidence that home-based food businesses pose a threat to the public in states where they are lightly regulated. Home-based food producers in such states have an excellent track record for food safety; and

(6) Allowing the production, sale, and consumption of a greater variety of homemade foods respects individuals' personal liberty, including their economic liberty. Individuals should be free to produce, procure, and consume the homemade foods of their choice; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Tennessee Food Freedom Act."

SECTION 2. Tennessee Code Annotated, Section 53-1-102, is amended by adding the following as new subdivisions:

() "Delivered" means transferred to the consumer, either immediately upon sale or at a time thereafter;

() "Department" means the department of agriculture;

() "Homemade food item" means a food item, including a non-alcoholic beverage, which is produced and, if packaged, packaged at the private residence of the producer;

() "Non-time/temperature control for safety food" means food that does not require time or temperature control for safety to limit the rapid and progressive growth of infectious or toxigenic microorganisms, including categories of foods in Rules of Tennessee Department of Agriculture, Rule 0080-04-09-.01(116);

() "Produce" means to prepare a food item by cooking, baking, drying, mixing, cutting, fermenting, preserving, dehydrating, growing, raising, or other process;

() "Producer" means a person who produces a homemade food item;

() "Seller" means a person who sells a homemade food item to a consumer;

() "State" means the state of Tennessee and its political subdivisions;

SECTION 3. Tennessee Code Annotated, Title 53, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) Notwithstanding part 2 of this chapter, or another law to the contrary, except as provided in this section, the production and sale of homemade food items under this chapter are exempt from all licensing, permitting, inspecting, packaging, and labeling laws of this state, except when the department of health is investigating a reported foodborne illness.

(b) The exemption under subsection (a) only applies if the following conditions are satisfied:

(1) Non-time/temperature control for safety food homemade food items must be sold either by:

(A) The producer to the consumer, whether in person or remotely, including, but not limited to, a sale by telephone or internet; or

(B) An agent of the producer or a third-party vendor, such as a retail shop or grocery store, to the consumer;

(2) Non-time/temperature control for safety food homemade food items must be delivered either by:

(A) The producer to the consumer; or

(B) An agent of the producer, a third-party vendor, or a third-party carrier to the consumer;

(3) The following information must be provided to the consumer, in the format required by subdivision (b)(4):

(A) The name, home address, and telephone number of the producer of the homemade food item;

(B) The common or usual name of the homemade food item;

(C) The ingredients of the homemade food item in descending order of predominance; and

(D) The following statement: "This product was produced at a private residence that is exempt from state licensing and inspection. This product may contain allergens."; and

(4)

(A) The information required by subdivision (b)(3) must be provided:

(i) On a label affixed to the package, if the homemade food item is packaged;

(ii) On a label affixed to the container, if the homemade food item is offered for sale from a bulk container;

(iii) On a placard displayed at the point of sale, if the homemade food item is neither packaged nor offered for sale from a bulk container; or

(iv) On the webpage on which the homemade food item is offered for sale, if the homemade food item is offered only for sale on the internet; and

(B) If the homemade food item is sold by telephone or custom order, the seller need not display the information required by subdivision (b)(3), but the seller shall disclose to the consumer that the homemade food item is produced at a private residence that is exempt from state licensing and inspection, and may contain allergens. The seller shall have the information required by subdivisions (b)(3)(A)-(C) readily available and provide it to the consumer upon request.

(c) This section does not:

(1) Impede the department of health in an investigation of a reported foodborne illness;

(2) Preclude the production or sale of food items otherwise authorized by law;

(3) Change the regulation of other goods and services where homemade food items are also produced or sold;

(4) Exempt producers or sellers of homemade food items from any applicable tax law; or

(5) Apply to sales other than intrastate sales made within this state.

(d) This section preempts county, municipal, and other political jurisdictions from prohibiting and regulating the production and sale of homemade food items.

SECTION 4. Tennessee Code Annotated, Section 53-1-208(b), is amended by deleting the language "Except as provided in subsection (d), no person shall manufacture" and substituting instead the language "Except as provided in Section 3 of this act, a person shall not manufacture".

SECTION 5. Tennessee Code Annotated, Section 53-1-208(d), is amended by deleting the subsection.

SECTION 6. This act takes effect July 1, 2021, the public welfare requiring it.